

## VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 35A.3(2), the Commission of Veterans Affairs hereby gives Notice of Intended Action to amend Chapter 10, “Iowa Veterans Home,” Iowa Administrative Code.

The intent of the proposed amendments is to reflect changes as a result of legislation signed by President Obama that modified the eligibility of Gold Star parents for admission to state veterans homes. Previously, Gold Star parents could be admitted only if all of their children died while serving in the armed forces. The change allows a Gold Star parent admission to a state veterans home if the parent has lost at least one child in active military service. The other changes reflect clarification of the support billing process at the Iowa Veterans Home.

Any interested person may make written suggestions or comments on the proposed amendments on or before May 24, 2011. Such written materials should be directed to Doug Freeman, Director of Admissions, Iowa Veterans Home, 1301 Summit, Marshalltown, Iowa 50158-5485; or faxed to (641)753-4278. E-mail may be sent to [doug.freeman@ivh.state.ia.us](mailto:doug.freeman@ivh.state.ia.us). Persons who wish to convey their views orally should contact the Commandant’s office at (641)753-4309 at the Iowa Veterans Home.

If requested in writing, a public hearing on the proposed amendments will be held on Wednesday, May 25, 2011, at 10 a.m. in the Ford Memorial Conference Room at the Iowa Veterans Home, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Iowa Veterans Home to advise of specific needs. If no written or oral requests for a public hearing are received prior to the public hearing, the public hearing will be canceled without further notice.

These proposed amendments are not subject to waiver.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 35D.

The following amendments are proposed.

ITEM 1. Adopt the following new definitions in rule **801—10.1(35D)**:

“*Gold Star parent*” means a parent whose child died while serving in the armed forces of the United States.

“*Therapeutic activity*” means an activity that is considered as treatment. A therapist shall determine that a particular activity is beneficial to the well-being of a resident and shall include this determination in the resident’s plan of care.

ITEM 2. Amend rule 801—10.2(35D), introductory paragraph, as follows:

**801—10.2(35D) Eligibility requirements.** Veterans, ~~and~~ spouses of veterans, and Gold Star parents shall be eligible for admission to IVH in accordance with the following:

ITEM 3. Amend paragraph **10.2(1)“b”** as follows:

b. The individual cannot be competitively employed on the day of admission or throughout the individual’s residency.

ITEM 4. Amend paragraph **10.2(2)“d”** as follows:

*d.* Spouses, ~~and~~ surviving spouses and Gold Star parents admitted to IVH shall not exceed more than 25 percent of the total number of members at IVH as provided in U.S.C. Title 38.

ITEM 5. Renumber subrule **10.2(3)** as **10.2(4)**.

ITEM 6. Adopt the following **new** subrule 10.2(3):

**10.2(3)** A Gold Star parent shall be eligible for admittance in accordance with the following conditions:

- a.* The parent's child died while serving in the armed forces of the United States.
- b.* The individual does not have sufficient means for the individual's support, or the individual is disabled by reason of disease, wounds, old age or otherwise and is in need of one of the multilevels of care available at IVH and is unable to defray the expenses of the necessary care, except as described at paragraph “*e.*”
- c.* The individual cannot be competitively employed on the day of admission or throughout the individual's residency.
- d.* The individual shall have met the residency requirements of the state of Iowa on the date of admission to IVH.
- e.* An individual who has sufficient means for the individual's own care but who is otherwise eligible to become a member of IVH may, if there is room for individuals described in paragraph “*b*” above, be admitted and allowed to remain at IVH upon payment of the cost of the individual's care in accordance with rules 801—10.14(35D) to 801—10.23(35D).
- f.* An individual who has been diagnosed by a qualified health care professional as acutely mentally ill, as an acute alcoholic, as addicted to drugs, as continuously disruptive, or as dangerous to self or others shall not be admitted to or retained at IVH.
- g.* Gold Star parents, spouses and surviving spouses admitted to IVH shall not exceed more than 25 percent of the total number of members at IVH as provided in U.S.C. Title 38.

ITEM 7. Amend subrule 10.3(2) as follows:

**10.3(2)** Application shall be made on the “Veteran Application for Admission to the Iowa Veterans Home,” Form 475-0409, ~~or on the~~ “Spouse's Application for Admission to the Iowa Veterans Home,” Form 475-0410, or the “Gold Star Parent Application for Admission to the Iowa Veterans Home,” Form 475-0411. Separate ~~application~~ applications shall be required for an eligible veteran and the spouse of the veteran when both veteran and spouse are applying for admission. The applications may be obtained at:

- a.* The county commission of veterans affairs' office.
- b.* DVA medical centers located in or serving veterans in the state of Iowa.
- c.* IVH.

ITEM 8. Reletter paragraphs **10.3(4)“d”** to “**h**” as **10.3(4)“e”** to “**i.**”

ITEM 9. Adopt the following **new** paragraph **10.3(4)“d”**:

*d.* If the applicant is a Gold Star parent, an original or certified copy of the veteran's birth certificate and certification of the child's death while serving in the armed forces of the United States.

ITEM 10. Amend subrule 10.11(1) as follows:

**10.11(1)** Member rights shall be in accordance with those listed in 481—Chapter 57 for members residing in the residential care facility level of care, those listed in 481—Chapter 59 58 for members residing in the nursing facility level of care, and those noted in Department of Veterans Affairs, State Veterans Homes, Veterans Health Administration, pertaining to residents of state veterans homes.

ITEM 11. Amend subparagraphs **10.16(2)“a”(7)** and **(10)** as follows:

(7) Assets of Native Americans belonging to certain tribes arising from judgment fund and payments from certain land and subsurface mineral rights. This does not include per capita payments from casino proceeds.

(10) An amount that is irrevocable and separately identifiable, having a principal amount not in excess of \$8514 ~~principal~~ a predetermined amount set by the department of human services, without an itemized billing, for the member or spouse to meet the burial and related expenses of that person.

ITEM 12. Amend paragraphs **10.16(2)“c”** and **“d”** as follows:

c. *Assets of a married member with spouse in a care facility.* If a member's spouse is residing in a nursing facility, ~~including IVH,~~ the member shall be treated as a single member for asset determination purposes. If the member and the spouse become members of IVH on the same day, all resources of both members shall be added together and split one-half to each member for asset determination purposes. If the spouse is residing in a residential care facility, the rules pertaining to a spouse living in the community apply.

d. *Assets of a married member with spouse living in the community.* When liquid assets not exempted in paragraph “a” above are equal to or exceed \$2,000, those liquid assets shall be considered an available resource for the payment of member support. These assets shall be considered available for payment of member support until such time that the remaining liquid assets total less than \$500, but leaving at least \$140.

The assets attributed to the member shall be determined from the documented assets of both the member and spouse living in the community as of the first day of admission to IVH. All resources of both the member and the spouse shall be added together. If the total resources are less than \$24,000 (the amount set by 441 IAC 75.5(3) “d” and “f,” Public Law 100-365 and Public Law 100-485), then that amount shall be protected for the spouse living in the community. If applicable, the next \$24,000 shall be awarded to the member. Any resources over \$48,000 shall be split one-half to the member and one-half to the spouse up to a predetermined amount set by the department of human services. All resources over the predetermined amount shall be awarded to the member unless it is determined that the member would never be eligible for Medicaid benefits; in this circumstance, assets will be split one-half to the member and one-half to the spouse. Other resources attributed to the spouse living in the community shall be determined by the department of human services through the attribution process.

(1) to (3) No change.

ITEM 13. Amend subparagraphs **10.19(2)“a”(8)** and **(16)** as follows:

(8) Any money received by a member from the sale of items ~~constructed or grown at IVH as part of a therapy program~~ resulting from a therapeutic activity.

(16) Income from participating as outlined in the community reentry program (IVH policy #265A 174) or the IVH discharge planning policy (IVH policy #265).

ITEM 14. Amend paragraph **10.19(2)“b”** as follows:

b. Personal needs allowance. All members shall have a an amount exempted from their monthly income intended to cover the purchase of clothing and incidentals.

(1) and (2) No change.

ITEM 15. Amend subrule 10.20(10) as follows:

**10.20(10)** Through IVH programs, employment is only allowed in the community reentry program (IVH policy #265A 174) or the IVH discharge planning policy (IVH policy #265).

ITEM 16. Amend subrule 10.35(7) as follows:

**10.35(7)** Upon the death of a member with personal funds deposited with IVH, IVH will first take payment for the final support bill. If funds remain, IVH ~~must~~ will convey promptly the member's funds to any outstanding funeral home bill, the individual paying last funeral expenses, or whoever is administering the member's estate. If probate papers are produced, a final accounting of those funds must also be provided to the individual administering the member's estate. If the value of the member's estate is so small as to make the granting of administration inadvisable, IVH must hold, then deliver all money plus interest within one year to the proper heirs equally or adhere to the member's request in the member's last will and testament.

ITEM 17. Amend subrule 10.56(3) as follows:

**10.56(3)** Pets are not allowed inside the cottages ~~without prior authorization~~. Visitors who bring pets must comply with IVH rules regarding pet health and safety. ~~Visitors may maintain~~ Visiting pets will be housed in a portable pet kennels kennel outside the cottage and kept on a leash while on the IVH grounds. The kennel shall be provided by the pet owner.